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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of	)	
Truth-in-Billing	)	CC Docket No. 98-170
and	)	
Billing Format	)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Cable Plus, L.P. and MultiTechnology Services, L.P.'s
Petition for an Expedited, Temporary Waiver

Cable Plus, L.P. and its affiliate, MultiTechnology Services, L.P., d/b/ a Telephone Plus (collectively "Cable Plus"), by its attorneys and pursuant to section 1.3 of the Federal Communications Commission's ("FCC") rules,[1] respectfully submit their petition for expedited temporary waiver of the Commission's "Truth-in-Billing" rules, which are scheduled to take effect on July 25, 1999.[2] Cable Plus requests that it be granted a waiver of the Truth-in-Billing rules until 180 days after it receives a *bona fide* request for equal access. In support of this request, Cable Plus states as follows:

Cable Plus is a small competitive local exchange carrier ("CLEC") with its headquarters in Bellevue, Washington. Cable Plus currently provides telecommunications services to its customers in the states of Arizona, California, Colorado, Georgia, Nevada, Oregon, Texas, Utah, and Washington.

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[1] 47 C.F.R. §1.3.

[2] 64 Fed. Reg. 34488 (1999). These regulations will be codified as sections 64.2000 and 64.2001 of the rules of the FCC. 47 C.F.R. §§64.2000 and 64.2001.

Prior to its becoming a CLEC, Cable Plus has operated, for several years, as a shared tenant service ("STS") provider, offering telecommunications services to residents of multi-tenant dwelling units ("MDUs").[3] As an STS provider, Cable Plus resells telecommunications services using PBXs and direct inward dial ("DID") and direct outward dial ("DOD") trunks, which are provided by other carriers. In an STS arrangement, Cable Plus provides both local exchange and interexchange services to its end user customers.[4] Therefore, Cable Plus also serves as the interexchange carrier for all 1+ long distance calls that are placed by its end user customers.

Cable Plus now uses a standard central office switch to provide service to many of its customers in Texas. However, Cable Plus continues to serve all other end user customers on an STS basis. In all of its markets, residents of MDUs are still the vast majority of Cable Plus' customers.

Cable Plus developed its operations support systems ("OSS"), including its billing system, to meet the needs of an STS provider. As an STS provider, Cable Plus had no reason to disaggregate its customer billing entries by carrier since Cable Plus served as its customers' only carrier.[5] Cable Plus' billing system does have the functionality to disaggregate customer billing entries to accommodate multiple carriers or service providers. However, as discussed below, Cable Plus cannot reasonably make the necessary changes to its billing system to activate that functionality in order to accommodate carrier-specific bill disaggregation by July 25, 1999.

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[3] A basic description of the STS business can be found in *Policies Governing the Provision of Shared Telecommunications Services*, 102 FCC 2d 1421, 1422 (1986).

[4] A DOD trunk must be presubscribed to a single interexchange carrier. Therefore, every person using that trunk to place an interexchange call on a 1+ basis is automatically connected to the DOD trunk's presubscribed carrier.

[5] Cable Plus does manually bill a very limited number of collect or calling cards calls handled by other carriers in order to accommodate its end user customers' needs.

Cable Plus has investigated the work efforts and their associated costs that would be necessary in order for Cable Plus to implement the Truth-in-Billing rules. Cable Plus estimates that it would require it or its contractor(s) to devote approximately 1000 person hours for research and design, approximately 500 person hours for computer programming, and approximately 700 person hours for testing, or a total of 2200 person hours, to modify its billing system alone.[6] Further, Cable Plus estimates that the costs for making and testing these billing system changes would range from $220,000 to $350,000. These sums represent a significant financial burden for a small CLEC, such as Cable Plus, that is currently making a transition from an STS provider to a facilities-based CLEC.

In addition, it would be irresponsible for Cable Plus to attempt a major billing system modification at this time. Cable Plus is currently in the midst of an important Y2K remediation program for its network and OSS. This project, along with the many other undertakings associated with the transition from STS provider to facilities-based CLEC, has strained Cable Plus' human, technical and financial resources. Cable Plus simply cannot, at this time, reasonably assume another major project, such as revamping its billing system to comply with the FCC's Truth-in-Billing rules. To do so, would put Cable Plus' day-to-day business operations and services to its customers at risk.

Finally, there is no practical reason for Cable Plus to devote its limited resources to make changes to its billing system at this time. While the central office switch that serves Cable Plus' Texas customers has equal access capability for both interLATA and intraLATA services, Cable

[6] Cable Plus would also be required to take other actions to implement the Truth-in-Billing rules, such as training its customer service representatives.

Plus has not yet received even a single request for equal access from any other carrier.[7] Until Cable Plus receives such a request, it will continue to carry all of its customers' calls. Accordingly, there is no reason for Cable Plus to make modifications to its billing system well in advance of any possibility that Cable Plus would even bill for another carrier.

The Commission is required to grant a waiver to a request policy under the standards of *WAIT Radio v. FCC*.[8] That case sets forth a two-pronged test. First, will the requested waiver serve the public interest? Second, would the strict application of the rule to Cable Plus be inconsistent with the public interest? Cable Plus' request for waiver satisfies the *WAIT Radio* standard.

It would serve the public interest for Cable Plus to continue devoting its limited resources to the completion of its Y2K remediation project and to the transition from STS provider to facilities-based CLEC. Moreover, in the absence of a *bona fide* request for equal access, application of the Truth-in-Billing rules make little sense when applied to Cable Plus. Cable Plus' customers do not face the problems of slamming and cramming, at which the FCC's Truth-in-Billing rules are directed.[9] Strict application of these rules to Cable Plus would clearly be contrary to the public interest, especially since it would be physically impossible for Cable Plus to

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[7] In view of Cable Plus' unique situation where it serves as the only long distance carrier for its customers, Cable Plus sought and received from the Texas Public Utilities Commission ("PUC"), a suspension and waiver of Cable Plus' intraLATA equal access obligations. *Application of Cable Plus Company, L.P. and MultiTechnology Services, L.P. for Approval of IntraLATA Equal Access Implementation Plan and Petition for Suspension and Waiver of Certain Provisions for P.U.C. Subst. R. 23.103*, Order No. 2, Project No. 20802 (Texas PUC June 10, 1999) ("*Cable Plus Waiver*"). The Texas PUC has suspended Cable Plus' intraLATA equal access obligation until at least 120 days after it receives a *bona fide* request for equal access or the completion of Cable Plus' Y2K upgrades to its OSS, whichever is later.

[8] 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied* 409 U.S. 1027 (1972).

[9] *Truth-in-Billing and Billing Format*, 64 Fed. Reg. at 34489, ¶¶11-12.

comply with the rule by July 25, 1999, even if Cable Plus had the resources to modify its billing system at this immediate time.[10] Cable Plus meets the test of *WAIT Radio*.

Cable Plus submits that a reasonable approach would be for Cable Plus to defer its compliance with sections 64.2000 and 64.2001 of the FCC's rules until 180 days after Cable Plus receives a *bona fide* request for equal access. This approach would result in Cable Plus' customers receiving bills that are Truth-in-Billing compliant when those customers become at risk for slamming and cramming, which occurs only upon the introduction of equal access.

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[10] Based on Cable Plus' estimate of the work necessary (2200 hours) to revise its billing system to meet the requirements of the Truth-in-Billing rules, Cable Plus would have been required to devote more than nine people working eight hours per day, seven days per week, from June 25 (the day of the Federal Register notice) to July 24, in order to comply with the FCC's new billing mandate. Cable Plus submits that such a burden is both unreasonable and impossible. Moreover, the imposition of the Truth-in-Billing rules on small businesses, with only a one-month lead time, violates the spirit, if not the very letter, of Section 257 of the Act (47 U.S.C. §257), in which Congress directed the FCC to remove regulatory market barriers to the entry and full participation of small business entities in the telecommunications market.

For the reasons set forth above, Cable Plus respectfully requests a waiver of sections 64.2000 and 64.2001 of the FCC's rules until 180 days after Cable Plus receives a *bona fide* request for equal access. Further, Cable Plus requests that the FCC grant this request on an expedited basis.

Respectfully submitted,

Cable Plus, L.P. and
MultiTechnology Services, L.P.

By ________________

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